

14 August 1956

OGC Has Reviewed

MEMORANDUM FOR: Chief, Finance Division

SUBJECT : Annual Leave

REFERENCE : Your Memorandum, Dated 7 May 1956,
Subject: "Annual Leave"

1. Your memorandum generally poses the question of whether a traveler who is authorized to travel by privately owned automobile (hereinafter referred to as PGA) "not to exceed cost by common carrier" should be charged annual leave in the amount of the time which constitutes the difference between the actual travel time and the time which would have been required to travel by the (designated) common carrier. We are informed that it generally has been the practice within the Agency to charge this amount of time to the annual leave of travelers traveling under such an authorization.

2. This practice apparently has proceeded on the theory that the maintenance of the traveler in a duty status for this time differential represents an excess "cost" to the government within the meaning of the phrase, "not to exceed cost by common carrier". We have serious reservations as to the correctness of this imputation. While we can conceive of instances in which such an excess, and we emphasize excess, cost might be involved, also we can conceive of one in which it would not. Additionally, the language under consideration, in terms, makes no mention of annual leave, but seems rather to treat another clearly defined subject and in a clearly understandable manner.

3. We have expressed our reservations in this regard to the General Accounting Office. We are informed by that office that it considers the charging of annual leave in the instance of a travel authorization of this type to constitute a matter of administrative discretion, and that it would not take suit exception to either the charging of annual leave in such an instance or the failure to charge, subject to the limitation that all time necessary to complete the travel by PGA which is in excess of the time within which the traveler would have been required to complete the travel if ordered to perform it by PGA should be charged to annual leave, or leave without pay, as appropriate.

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4. We conclude that there would seem to be no legal objection either to charging a traveler authorized to travel by PQA not to exceed cost by common carrier with annual leave for the time difference between travel time by the common carrier and the travel time by PQA, or to maintaining him in a duty status for this period, again within the limitation set out immediately above. To the ends of uniformity of administration with the Agency and the securing to our employees of the most advantageous dispensation, we suggest that the Comptroller's Office properly could establish an Agency policy of not charging the difference between the travel time by common carrier and the authorized travel time by PQA to the annual leave of a traveler who was authorized to travel by PQA at a cost not to exceed cost by common carrier. If there appears to be a difference in conclusions on this particular subject between this memorandum and that of 20 June 1956, from this Office to the Comptroller and dealing with a related subject matter, you may be guided by this memorandum.

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Office of General Counsel

OGC/HF:pkb

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